

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROSLYN GALLIPOLI,

Plaintiff,
-against-

UNITED STATES OF AMERICA,

Defendant.

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MEMORANDUM AND ORDER
No. 12-CV-4162 (FB) (JO)

Appearances:

For the Plaintiff:

MICHAEL ADAM FISCHBEIN, ESQ.
Paul B. Weitz & Associates, P.C.
233 Broadway, 5th Floor
New York, NY 10279

For the Defendant:

ORELIA E. MERCHANT, ESQ.
United States Attorneys Office
Eastern District Of New York
271 Cadman Plaza East
Brooklyn, NY 11201-1820

BLOCK, Senior District Judge:

On November 25, 2013, Magistrate Judge James Orenstein issued a Report and Recommendation ("R&R") recommending that the court approve the parties' settlement in accordance with the terms set forth in the plaintiff's proposed Compromise Order. The parties propose to settle the plaintiff's claims for a total payment of \$300,000.

The R&R states that "[a]ny objections to this Report and Recommendation must be filed no later than December 13, 2013. Failure to file objections within this period designating the particular issues to be reviewed waives the right to appeal the district court's order." R&R at 3. A copy of the R&R was served on the defendant at its last known address on November 26, 2013. To date, no objections have been filed.

Where, as here, clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R & R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

As no error appears on the face of Magistrate Judge Orenstein’s R&R, the Court adopts it without *de novo* review. Accordingly, the court approves the settlement in accordance with the terms set forth in the plaintiff’s proposed Compromise Order.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
March 13, 2014